

ASSEMBLY BILL

No. 1362

Introduced by Assembly Member Wiggins

February 21, 2003

An act to amend Section 8314 of the Government Code, relating to public resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 1362, as introduced, Wiggins. Public resources: prohibited uses.

Existing law makes it unlawful for any elected state or local officer, appointee, employee, or consultant, to use or permit others to use public resources for a campaign activity, or personal or other purposes that are not authorized by law.

This bill would make a technical, nonsubstantive change in these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8314 of the Government Code is
2 amended to read:

3 8314. (a) It shall be unlawful for any elected state or local
4 officer, including any state or local appointee, employee, or
5 consultant, to use or permit *any* others to use public resources for
6 a campaign activity, or personal or other purposes ~~which~~ *that* are
7 not authorized by law.

8 (b) For purposes of this section:

(1) “Personal purpose” means those activities the purpose of which is for personal enjoyment, private gain or advantage, or an outside endeavor not related to state business. “Personal purpose” does not include the incidental and minimal use of public resources, such as equipment or office space, for personal purposes, including an occasional telephone call.

(2) “Campaign activity” means an activity constituting a contribution as defined in Section 82015 or an expenditure as defined in Section 82025. “Campaign activity” does not include the incidental and minimal use of public resources, such as equipment or office space, for campaign purposes, including the referral of unsolicited political mail, telephone calls, and visitors to private political entities.

(3) “Public resources” means any property or asset owned by the state or any local agency, including, but not limited to, land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and state compensated time.

(4) “Use” means a use of public resources ~~which~~ *that* is substantial enough to result in a gain or advantage to the user or a loss to the state or any local agency for which a monetary value may be estimated.

(c) (1) Any person who intentionally or negligently violates this section shall be liable for a civil penalty not to exceed one thousand dollars (\$1,000) for each day on which a violation occurs, plus three times the value of the unlawful use of public resources. The penalty shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney or any city attorney of a city having a population in excess of 750,000. If two or more persons are responsible for any violation, they shall be jointly and severally liable for the penalty.

(2) If the action is brought by the Attorney General, the moneys recovered shall be paid into the General Fund. If the action is brought by a district attorney, the moneys recovered shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney, the moneys recovered shall be paid to the treasurer of that city.

(3) No civil action alleging a violation of this section shall be commenced more than four years after the date the alleged violation occurred.

1 (d) Nothing in this section shall prohibit the use of public
2 resources for providing information to the public about the
3 possible effects of any bond issue or other ballot measure on state
4 activities, operations, or policies, provided that (1) the
5 informational activities are otherwise authorized by the
6 constitution or laws of this state, and (2) the information provided
7 constitutes a fair and impartial presentation of relevant facts to aid
8 the electorate in reaching an informed judgment regarding the
9 bond issue or ballot measure.

10 (e) The incidental and minimal use of public resources by an
11 elected state or local officer, including any state or local appointee,
12 employee, or consultant, pursuant to this section shall not be
13 subject to prosecution under Section 424 of the Penal Code.

